

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

DEBORAH MOSS, on Behalf of Herself  
and All Others Similarly Situated,

Plaintiffs,

vs.

FIRST PREMIER BANK, a South Dakota  
State-Chartered Bank,

Defendant.

CASE NO. 2:13-CV-05438-ERK-AYS

**JOINT MOTION TO VACATE ORDER  
SETTING DISCOVERY AND MOTION  
DEADLINES**

Pending before this Court is Defendant First Premier Bank’s (“First Premier’s”) Motion for Partial Summary Judgment (Doc #202, *et seq.*)—the motion seeks a ruling “that a class cannot be certified and dismissing the putative class claims asserted by Plaintiff Deborah Moss in her Third Amended Class Action Complaint based on her independent ‘Agreement Not To Bring, Join Or Participate In Class Actions.’” The motion also sought a stay of class discovery which Judge Edward Korman granted, entering an Order staying class discovery “pending resolution of defendant’s motion for partial summary judgment.” (Electronic Order entered on January 10, 2020).

Prior to Defendant’s Motion, this Court entered a discovery schedule (Doc. 192) providing deadlines for:

**Fact Discovery**

1. Completion of fact discovery on or before March 2, 2020;

**Expert Discovery**

2. Disclosure of Experts on or before March 2, 2020;
3. Service of Expert Reports on or before March 30, 2020;

4. Disclosure of Rebuttal Experts on or before March 30, 2020;
5. Service of Rebuttal Expert Reports on or before May 25, 2020;
6. Expert discovery, including depositions, to be completed by June 15, 2020;

**Motion Schedule**

7. Non-Dispositive motions relating to fact discovery to be filed and served by March 16, 2020;
8. All other non-dispositive motions, including motions relate to expert discovery, to be filed and served by July 27, 2020;
9. All dispositive motions, including class-certification motions to be filed and served by July 27, 2020.

The parties have met and conferred in good faith and have agreed that, in light of the stay of class discovery and the pending Motion for Partial Summary Judgment, these discovery and motion deadlines should be vacated and new deadlines set by this Court following resolution of the pending motion. The parties agree that they will promptly alert the Court when the pending motion is decided and will appear for a new scheduling conference at the Court's convenience. The parties have also agreed that a modest number of remaining documents relating to fact discovery will be produced by both sides notwithstanding the vacatur of the Order and that depositions will be held in abeyance until a revised schedule is set following a ruling on the pending Motion. The parties will also continue to cooperate on any remaining fact discovery issues notwithstanding the vacatur of the Order.

WHEREFORE, the parties hereto respectfully request that the Court grant this motion and vacate the discovery scheduling Order consistent with the parties' agreement set forth herein (Doc. 192).

Dated: New York, New York  
February 7, 2020

Respectfully submitted,

**KAPLAN GORE LLP**

By: /s/ Darren T. Kaplan  
Darren T. Kaplan (DK 8190)

1359 Broadway, Suite 2001  
New York, NY 10018  
Tel: (212) 999-7370  
Fax: (404) 537-3320  
dkaplan@kaplangore.com

*Attorneys for Plaintiff Deborah Moss*

**MASLON LLP**

By: /s/Bryan R. Freeman  
Bryan R. Freeman *Admitted pro hac vice*

3300 Wells Fargo Center  
90 South Seventh Street  
Minneapolis, MN 55402  
Tel: (612) 672-8200  
Fax: (612) 642-8375  
Bryan.Freeman@maslon.com

*Attorneys for Defendant First Premier Bank*

SO ORDERED.

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UNITED STATES MAGISTRATE JUDGE

DATED: \_\_\_\_\_